THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 25620 of 2003

Date: 11-10-2006.

Between :

K.Subba Rao.

…..Petitioner

And

Registrar (Vigilance), High Court of A.P., Hyderabad.

…..Respondent.

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 25620 of 2003

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the petitioner. Nobody for respondent.

In this writ petition, an order dated 19.08.2003 has been challenged, by which, the petitioner has been awarded the punishment of stoppage of two increments with cumulative effect. Various charges were framed against the officer concerned and an enquiry was conducted. Charge Nos.4 and 5 were partly proved in the enquiry, according to the enquiry officer. After the report was furnished by the enquiry officer, it was given to the petitioner and he was asked to explain. He gave his explanation and the explanation was also considered.

Charge No.4 relates to the allegation that the officer was not regular in attending the Court and he would usually attend the Court from 11.30 a.m. or 12 noon and

then he would also take rest between 1.30 and 3.30 p.m. and would attend the Court only at about 3.30 or 4 p.m. On enquiry, however, the enquiry officer found that the charge was true to the extent that on public holidays the Magistrate would go to his native place and while returning, he would be late by half an hour or an hour. This charge has been proved to the extent mentioned above on the basis of the evidence before the enquiry officer.

The learned counsel for petitioner wants this Court to go into the evidence once again and come to conclusions of its own. We are afraid that it is not permissible in these proceedings to go into evaluating the whole evidence to see whether there is any evidence or not for substantiating a charge. We have gone through the enquiry report and also the reply which was given by the petitioner and we are convinced that there has been evidence to come to a conclusion that the delinquent officer, the petitioner, was irregular in attending his duties, which is admittedly an act of misconduct. Since on this charge we find there is sufficient evidence and the punishment given is not disproportionate, we do not want to go to the findings on the second charge, which relates to the fact that the petitioner, as a Magistrate, compounded an offence, which was not compoundable. However, we have our own doubts whether, if any order

has been passed by a Judicial Officer which was not in accordance with law, would constitute a misconduct, unless it is shown that the order was passed for an extraneous reasons. But we are not going into this charge, because, the punishment can be sustained on Charge No.4, which has been discussed hereinabove.

The writ petition is accordingly dismissed.

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(BILAL NAZKI, J)

11th October 2006

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(NOOTY RAMAMOHANA RAO, J)

ajr